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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,894	08/21/2001	Isamu Suzuki	F-11380	6424

466 7590 03/12/2007
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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/932,894

Applicant(s)

SUZUKI, ISAMU

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant amended claims 8, 10, and 11 and amended withdrawn claim 12. All claims pending claims not withdrawn (8-11) were examined in this final office action necessitated by amendment.

Response to Arguments

Applicant's arguments filed 05 December 2006 pertaining to the merits of the office action have been fully considered but they are not persuasive. The examiner was not taking official notice. The Applicant did not claim a minimum of three prices upon which the lowest could be determined. One of ordinary skill in the art would recognize that if two different prices were presented for comparison, one would be the lower of the two, and by extension, among three or more different prices, one would be the lowest. This is fundamental knowledge.

Arguments based on adding subject matter (not examined) were addressed with the combination of Fano and Acses which removed reliance upon one of ordinary skill.

Should the Applicant file a request for continued examination and amend withdrawn claim 12 by changing "continuously" to "constantly," the Examiner will withdraw election by original presentation. The instant specification cites

"constantly" which by definition is an recurring event whereas "continuously" by definition is ongoing without interruption and is not supported in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 8-11 are rejected under 35 USC 103(a) as being unpatentable over Fano (Paper #20060328, US 6,317,718) in view of Acses (a collection of prior art collectively describing Acses' shopping service cited in PTO-892, Items: U and V).**

Fano teaches a system and method of an integration server maintaining at least separate databases for supplier products' data and customer profile data, and relying upon updates from suppliers (see at least abstract; Fig. 9; Fig. 10A; Fig. 18). Fano teaches the use of search agents to retrieve requested product information (i.e. pricing) from suppliers integrated into the Intention Value Network. Fano teaches an agent based system utilizing a Personal Digital Assistant (PDA)-based, Global Positioning System (GPS-enabled information gathering agent to create a customized offer information summary based on the location of a user and one or more items of interest and further teaches the use

of user location information to constrain the information gathering task to improve the effectiveness of the shopping experience (see at abstract; col. 2, lines 21-55).

Fano further teaches:

- A plurality of dealer terminals: suppliers and supplier servers (i.e. terminals) (see at least Fig. 9; Fig. 10A (1070); col. 27, lines 25-28; col. 28, line 62 through col. 29, line 10).
- Sending the latest commodity information from dealer terminal to information retrieval service; (see at least Fig. 9 (950); Fig. 10A).
- An information retrieval service: service integration server (see at least Fig. 10A (1020); col. 29, lines 5-8);
- Receiving the latest commodity information at the retrieval service; updating a database (see at least Fig. 9 (950, 960); Fig. 10A (1030, 1040, 1050, 1060); Fig. 18; col. 28, line 62 through col. 30, line 4; col. 33, line 64 through col. 34, line 11).
- A plurality of user terminals requesting information retrieval: wireless PDA users in lieu of (see at least Fig. 10A (1010); Fig. 17 (1740); col. 28, line 65 through col. 29, line 10).
- Sending an area and commodity item from the user terminal to information retrieval service: One or more items are obtained from a user using a Personal Digital Assistant (PDA)-based, Global Positioning System (GPS)-enabled information gathering agent to create a customized offer information summary based on the location of a user and one or more

items of interest and further teaches the use of user location information to constrain the information gathering task to improve the effectiveness of the shopping experience (see at abstract; Fig. 9 (900-930); col. 2, lines 21-55; col. 27, lines 11-25).

- *Sending a retrieval result to user terminal*; constrained by user location as noted above; comparison shopping (see at least Fig. 9; col. 27, lines 11-14); *lowest price*; displays lowest price between to competing brands (see Fig. 27) (please note: shows only two brands in example, \$45.95 for Dockers, \$24.95 for Levis). *Latest pricing*; extracting latest pricing from supplier for the user (see at least Fig. 18; col. 33, line 64 through col. 34, line 11). Please note that within the domain of the integrated shopping service, prices maintained and updated by each supplier is considered to be their latest and lowest pricing.

Fano teaches all the above as noted under the 103(a) rejection and teaches a) retrieving for the user pricing results that would provide a lower price among two competing brands in the area the user is located, b) retrieving the latest information on news or sports (see at least col. 1, line 49; col. 14, lines 23-26), and c) providing information updates to provide the user with the best information (see at least col. 10, lines 40-45), but does specifically disclose displaying lowest pricing. On the other hand, Acses teaches a shopping service that provides a comparison shopping convenience for consumers. From among multiple

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merchants, Asces provides the best (i.e. lowest) price for a single item from multiple merchants and further discloses providing the best (i.e. lowest) total price and displaying a table of pricing results sorted by price for an entire selection, taking shipping costs into account. (U: see pages 1 and 2; V: see page 2). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Fano to provide the lowest price for a single item or lowest total price for multiple items in a list from among multiple merchants sorted by price as taught by Asces, in order to provide a shopping convenience and thereby attract shoppers to the service.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2001/0049636 (Hudda) 06 December 2001; teaches comparison shopping among a plurality of local shops using wireless devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond
Primary Examiner
February 28, 2007